

lacking a specific deduction for their charitable contributions, there can be no question that they face a disincentive to making charitable contributions relative to itemizers, who tend to be upper-middle income and upper-income taxpayers. This certainly appears unfair. But, more importantly, it means charitable organizations supported predominantly by lower-income individuals are even more strapped for financial support than they need be. For example, churches serving lower-income communities have fewer resources to address the needs of their congregations as a result of this disincentive.

I introduced similar legislation in the 106th Congress, and 149 Members signed on as cosponsors. I have made two important changes to last year's bill, however. First, taxpayers would now be able to deduct the full amount of their contribution, rather than only half. And, second, to prevent certain individuals from gaming the system I limit the amount a non-itemizer can take to the amount of the standard deduction.

Along with the two other bills I am introducing today preserving the charitable deduction against the itemized deduction phase-down and allowing IRA rollovers to charity, we have an excellent opportunity to advance sound tax policy and sound social policy by returning to our Nation's historical emphasis on private activities and personal involvement in the well-being of our communities. These bills will significantly increase the resources available to our charitable organizations.

Charity benefits both the giver and the receiver in like proportions. The act of giving elevates the heart of the giver. The act of receiving elevates the condition of the recipient. Charity is thus a blessed act that should suffer no discouragement from something so mean as the tax code.

A TRIBUTE TO MR. H. LEE DIXSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. LEWIS of California. Mr. President, today I recognize an outstanding civil servant, Mr. H. Lee Dixon, who has served with distinction for the past seven years for the Secretary of the Navy as the Assistant Deputy Commandant for Programs and Resources under the Commandant of the Marine Corps and as the Fiscal Director of the Marine Corps. It is a privilege for me to recognize his many outstanding achievements in this capacity and to commend him for a career spanning more than 35 years of superb service to the Department of the Navy, the Congress, and our great Nation as a whole.

During his tenure as Assistant Deputy Commandant for Programs and Resources and as Fiscal Director, which began in March 1994, Mr. Dixon has provided Members of the Senate Appropriations Committee, as well as our professional and personal staffs with timely and accurate support regarding United States Marine Corps plans, programs and budget decisions. His valuable contributions have enabled the committee, the Department of the Navy and the Marine Corps to strengthen their close working relationship and to ensure that the most modern, well-trained and well-

equipped Marine forces are attained for the defense of our great Nation.

Mr. President, Lee Dixon and his wife, Carolyn, have made many sacrifices during his career, and as they embark on the next great adventure beyond their beloved Marine Corps, I call upon my colleagues to wish him every success and to thank him for his long, distinguished and ever-faithful service to God, country and the Department of the Navy. Semper Fidelis.

BRISTOL-MYERS SQUIBB COMPANY ABUSE OF AVERAGE WHOLE- SALE PRICE SYSTEM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 28, 2001

Mr. STARK. Mr. Speaker, I have recently sent the following letter to Bristol Myers Squibb highlighting the extent to which this company has been inflating its drug prices and engaging in other deceptive business practices.

The evidence provided shows that Bristol-Myers Squibb Co. has knowingly and deliberately inflated their representation of the average wholesale price ("AWP") which is utilized by the Medicare and Medicaid programs in establishing drug reimbursements to providers.

In doing so, Bristol-Myers Squibb Co. is abusing the public trust, endangering patients by affecting physician prescribing practices, and exploiting America's seniors and disabled who are forced to pay 20 percent of these inflated drug costs. And American taxpayers are picking up the rest of the tab.

To help bring an end to these harmful, misleading practices, I have called on the FDA to conduct a full investigation into such business practices.

These practices must stop and these companies must return the money to the public that is owed because of their abusive practices.

I submit the following letter to Bristol-Myers Squibb Co. to the CONGRESSIONAL RECORD.

February 22, 2001.

MR. PETER DOLAN,
President, Bristol-Myers Squibb Co., New York,
NY.

DEAR MR. DOLAN: Ongoing Congressional investigations have uncovered compelling evidence that Bristol-Myers Squibb ("Bristol") has for many years deliberately overstated the prices of some of its prescription drugs in order to cause the Medicare and Medicaid programs to pay inflated amounts to Bristol's customers. Bristol's participation in this scheme is costing American taxpayers billions of dollars in excessive drug costs and is jeopardizing the public's health safety and welfare. Bristol touts itself as "America's Most Admired Pharmaceutical Company" and says it is 11 out of 1,025 companies measured for "social responsibility". Yet, I think it is outrageous that your company would falsely inflate prices at a time when Medicare and the states' Medicaid Programs battle the crisis of spiraling prescription drug prices.

The price manipulation scheme is executed through Bristol's falsely inflated representations of average wholesale price ("AWP"), direct price ("DP") and wholesaler acquisition cost ("WAC"), which are utilized by

Medicare, Medicaid and most private third party payers in establishing drug reimbursements to providers. The difference between the inflated representations of AWP, DP and WAC versus the true prices that providers are paying is regularly referred to in your industry as "the spread".

Bristol has control over the AWP's, DP's and WAC's published for its drugs and directs national publishers to change their prices. An internal Bristol document directing a national publisher of drug prices to increase all of Bristol's AWP's for oncology drugs by multiplying Bristol's supplied direct prices by a 25% factor rather than the previous 20.5% factor. A variance of 16% to 20% between direct drug prices and AWP's represents a range that would more than generously cover inventory costs, normal price variances and any reasonable mark-up on oncology drugs occurring in the wholesale marketplace [Bristol sold the vast majority of its infusion oncology drugs directly to oncologists through its wholly owned OTN subsidiary, and while OTN did not mark up drug prices or at any time own the drugs, it was instead paid a commission directly from Bristol without the occurrence of any significant mark-ups at the wholesale level]. None of the 4.5% price increase was intended to provide more revenues to Bristol or enable wholesalers to charge higher prices to oncologist. There were no significant price markups at the wholesale level. Instead, the increase in the AWP created a spread that, in itself, provided a financial kickback to oncologists for prescribing Bristol's cancer drugs.

Since the additional 4.5% orchestrated by Bristol in 1992, the Medicare Program has needlessly paid more than an estimated \$60 million dollars for just two of Bristol's cancer drugs—this taxpayer abuse does not even account for additional Medicare beneficiary co-payments. To add insult to injury, one of the drugs Taxol (Paclitaxel) was significantly developed with taxpayer funds by the National Institute of Health.

A similar AWP increase by Glaxo drew the following objection from its competitor, Smith Kline Beecham: In an apparent effort to increase reimbursement to physicians and clinics, effective 1/10/95, Glaxo increased AWP for Zofran by 8.5% while simultaneously fully discounting this increase to physicians . . . The net effect of these adjustments is to increase the amount of reimbursement available to physicians from Medicare and other third party payors whose reimbursement is based on AWP. Since the net price paid to Glaxo for the non-hospital sales of the Zofran multi-dose vial is actually lower, it does not appear that the increase in AWP was designed to increase revenue per unit to Glaxo. Absent any other tenable explanation, this adjustment appears to reflect an intent to induce physicians to purchase Zofran based on the opportunity to receive increased reimbursement from Medicare and other third party payors. In fact, we have had numerous verbal reports from the field concerning Glaxo representatives who are now selling Zofran based on the opportunity for physicians to receive a higher reimbursement from Medicare and other third-party payors while the cost to the physician of Zofran has not changed.

The evidence clearly shows that Bristol has intentionally reported inflated prices and engaged in other improper business practices in order to cause its customers to receive windfall profits from Medicare and Medicaid when submitting claims for certain drugs. The evidence further reveals that Bristol manipulated prices for the express purpose of expanding sales and increasing market share of certain drugs where the arranging of a financial benefit or inducement